Summary of Key Provisions
Third Round of Waivers for CoC and ESG

September 30, 2020

HUD's Office of Community Planning and Development (CPD) issued a Memorandum containing a third set of regulation waivers on September 30. Ten waivers pertain to the Continuum of Care (CoC) program, one pertains to the Emergency Solutions Grant (ESG) program. Most of the waivers are also available to the Youth Homelessness Demonstration Program (YHDP). The Memorandum also provides a simplified process for recipients to notify HUD of their intent to use one of the waivers. The first set of waivers was issued on March 31 (see *Memo*, 4/6), the second set was issued on May 22 (see *Memo*, 6/1). The key waivers are summarized here.

Third-Party Documentation of Income

Current Regulation

The CoC and YHDP regulations require a recipient or subrecipient of the funds to keep records of an assisted person's or family's income and the back-up documentation relied on to determine income. The regulation has an order of preference for the type of documentation recipients may rely upon. Only if source documents and third-party verification are unobtainable is a written certification from the individual or family acceptable.

The Waiver

Because it might be difficult to obtain documentation or third-party verification of income in the context of the coronavirus pandemic, CPD is waiving the "only if" provision until December 31, 2020. Therefore, when conducting initial or subsequent rent calculations, recipients and subrecipients may accept a written self-certification of the amount of income a person or family "reasonably expects to receive over the three-month period" following the income evaluation even if source documents and third-party verification are available.

Initial Unit Inspection for Housing Quality Standards (HQS)

Modifying March 31 Waiver

CPD is modifying the waiver created on March 31 that waived the physical inspection requirement for six months as long as recipients or subrecipients were able to visually inspect a unit using technology to ensure the unit met HQS before any assistance was provided. CPD recognizes that this standard relies on households or landlords having the technology needed to carry out a virtual inspection; therefore, CPD is removing the visual inspection requirement.

The modified waiver, in effect until December 31, allows recipients and subrecipients to forego physical inspections if:

a. An owner certifies that they have no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units in question; and

b. A recipient or subrecipient has written policies to physically inspect the unit within three months after health officials determine special measures to prevent the spread of coronavirus are no longer necessary.

Suitable Dwelling Unit Size

Current Regulation

Units funded with CoC or YHDP funds must have at least one bedroom or living/sleeping room for each two people.

The Waiver

Households experiencing homelessness are often unable to afford the limited supply of affordable homes in many jurisdictions, especially during the current pandemic. Therefore, the rule is waived for recipients providing Permanent Housing-Rapid Rehousing assistance for leases executed by recipients and subrecipients until December 31, 2020, and extending until the later of the end of the initial term of the lease or December 31, 2020.

Annual Ongoing Planning and Stakeholder Consultation

The Requirement

Notice CPD-17-01 requires CoCs to facilitate ongoing planning and stakeholder consultation about the implementation of coordinated entry by seeking feedback at least annually from projects and households who participated in coordinated entry.

The Waiver

Due to reduced CoC staff capacity, this requirement is waived for one year from September 30, 2020.

Temporary Stays in Institutions for 90 Days or Less

Current Regulation

One definition of being "homeless" is someone exiting an institution where they lived for 90 days or less ***and*** lived in an emergency shelter or place not meant for human habitation immediately before entering the institution.

The Waiver

Due to the coronavirus, people are living in institutions for more than 90 days. Therefore, CPD is extending the period to 120 days. The waiver is in effect for six months from September 30.

Monthly Case Management for Permanent Housing-Rapid Re-Housing

Modifying March 31 Waiver

Recipients must require people assisted in permanent housing-rapid re-housing projects to meet with a case manager at least monthly to assist them in ensuring long-term housing stability. CPD originally waived this requirement for 2 months on March 31 and subsequently for 3 months on May 22.

The Waiver

Because recipients still have limited staff capacity and because not all assisted people have the capacity to meet via phone or internet, the rule is waived until December 31, 2020.

Fair Market Rent (FMR)

Modifying March 31 Waiver

CPD waived for six months, the requirement that rent payments may not exceed the Fair Market Rent (FMR), even if the rent was reasonable when compared to similar, unassisted units.

The Waiver

The FMR restriction continues to be waived until December 31, 2020 for transitional and permanent supportive housing.

Disability Documentation for Permanent Supportive Housing (PSH)

Current Regulation

Recipients providing Permanent Supportive Housing (PSH) must serve an individual or family who has a member with a disability, and must document that disability. When documentation of disability depends on an intake worker's observation, the recipient must obtain additional confirming evidence within 45 days of application.

Modifying March 31 Waiver

The March 31 Memorandum allowed recipients up to six months from the date of application to obtain confirming evidence.

The Waiver

The September 30 Memorandum waives the requirement until public health officials determine that no additional special measures are necessary.

One-Year PSH Lease Requirement

Modifying March 31 Waiver

The March 31 Memorandum waived for six months the requirement that that people living in Permanent Supportive Housing (PSH) have a lease that has a term of at least one year, that was renewable, and that could only be terminated for cause.

The Waiver

The September 30 Memorandum waives the one-year requirement for leases executed between September 30 and December 31, 2020.

Recipients Must Notify HUD of Intended Waivers

To use one of the waivers, a recipient must provide written notice, either through mail or e-mail, to the CPD Director of the HUD Field Office no less than two days before using the waiver.

The waiver Memorandum is at: https://bit.ly/2GEz4Vx

More information about the CoC and ESG programs is on page 4-22 NLIHC's *2020 Advocates' Guide*.